



Federal Highway Administration

23 CFR Part 650

[FHWA Docket No. FHWA-2017-0047]

RIN 2125-AF55

National Bridge Inspection Standards; Technical Correction

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This rule makes technical corrections to the regulations that govern the National Bridge Inspection Standards Program. The amendments contained herein make no substantive changes to FHWA regulations, policies, or procedures.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Drda, P.E., Office of Bridges and Structures, HIBS-40, (919) 747-7011; or William Winne, Office of the Chief Counsel, telephone (202) 366-1397, Federal Highway Administration, 1200 New Jersey Avenue, S.E., Washington, DC 20590. Office hours for FHWA are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded by accessing the Office of the Federal Register's home page at: www.federalregister.gov or the Government Printing Office's Website at: www.GovInfo.gov.

Background

This rulemaking makes technical corrections to the regulations that govern the National Bridge Inspection Standards Program found at 23 CFR part 650. In the final rule published in the Federal Register on May 6, 2022 (87 FR 27396), FHWA provided an incorrect cross reference in § 650.313(h), and an incomplete reference to material incorporated by reference to be used for the load rating of bridges in § 650.313(k). This Final Rule corrects those references in § 650.313(h) and (k).

Section 650.313(h) incorrectly pointed readers to “paragraphs (a)(1)(ii) and (b)(1)(ii) of this section” (emphasis added) to describe the use of special inspections in lieu of complete routine and underwater inspections for bridges on reduced inspection intervals. The paragraphs listed do not appear within § 650.313, but rather § 650.311. The FHWA corrects this sentence to remove the incorrect cross reference and to read as follows: “(h) *Special inspection.* For special inspections used to monitor conditions described in § 650.311(a)(1)(ii) and (b)(1)(ii), develop and document procedures in accordance with Section 4.2, AASHTO Manual (incorporated by reference, *see* § 650.317).”

Section 650.313(k) included an incomplete reference to the appropriate sections of the AASHTO Manual, incorporated by reference in § 650.317, for load rating purposes. As discussed in the preamble of the Final Rule, and referenced in the definition of “AASHTO Manual”, the third paragraph in Article 6B.7.1 is excluded from the considerations to be used for load rating. The FHWA corrects this sentence to note this exclusion and to read as follows: “(k) *Load rating.* (1) Rate each bridge as to its safe load capacity in accordance with Sections 6 and 8, excluding the 3rd paragraph in Article 6B.7.1, AASHTO Manual (incorporated by reference, *see* § 650.317).”

Rulemaking Analyses and Notice

Under the Administrative Procedure Act (5 U.S.C. 553(b)), an Agency

may waive the normal notice and comment requirements if it finds, for good cause, that they are impracticable, unnecessary, or contrary to the public interest. The FHWA finds that notice and comment for this rule is unnecessary and contrary to the public interest because it will have no substantive impact and is technical in nature. The amendments to the rule are necessary based on drafting errors made during the development of the Final Rule. The FHWA does not anticipate receiving meaningful comments on it. State and local governments rely upon the regulations corrected by this action. These corrections will reduce confusion for these entities and should not be unnecessarily delayed.

Accordingly, for the reasons listed above, FHWA finds good cause under 5 U.S.C. 553(b)(3)(B) to waive notice and opportunity for comment. For these same reasons, this Final Rule is effective upon its date of publication under 5 U.S.C. 553(d)(3) and, therefore, is exempt from the 30-day delayed effective date requirement of that section for these same reasons.

Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) has determined that this rulemaking is not a significant regulatory action under section 3(f) of Executive Order (E.O.) 12866. Accordingly, OMB has not reviewed it under that E.O. This action complies with E.O.'s 12866 and 13563 to improve regulation. It is anticipated that the economic impact of this rulemaking will be minimal. This final rule only makes minor corrections that will not alter the regulatory effect of 23 CFR part 650. Thus, the final rule will not adversely affect, in a material way, any sector of the economy. In addition, these changes will not interfere with any action taken or planned by another Agency and will not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612), FHWA has evaluated the effects of this action on small entities and has determined that the action will not have a significant economic impact on a substantial number of small entities. The final rule will not make any substantive changes to our regulations or in the way that our regulations affect small entities; it merely corrects technical errors. For this reason, FHWA certifies that this action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This final rule does not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, March 22, 1995, 109 Stat. 48). This final rule does not impose any requirements on State, local, or Tribal governments, or the private sector and, thus, will not require those entities to expend any funds.

Executive Order 13132 (Federalism)

This final rule has been analyzed in accordance with the principles and criteria contained in E.O. 13132. The FHWA has determined that this final rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment. The FHWA has also determined that this final rule does not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities apply to these programs. Local entities should refer to the Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction, for further information.

Paperwork Reduction Act

This final rule does not create any new information collection requirements for which submission to OMB would be needed under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

National Environmental Policy Act

The FHWA has analyzed this final rule for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347) and has determined that this action will not have any effect on the quality of the environment and qualifies for the categorical exclusion at 23 CFR 771.117(c)(20).

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this final rule under E.O. 13175. The FHWA concluded that the final rule will not have substantial direct effects on one or more Indian Tribes; will not impose substantial direct compliance costs on Indian Tribal government; and will not preempt Tribal law. There are no requirements set forth in the final rule that directly affect one or more Indian Tribes. Therefore, a Tribal summary impact statement is not required.

Executive Order 12898 (Environmental Justice)

E.O. 12898 requires that each Federal Agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. The FHWA has determined that this final rule does not raise any environmental justice issues.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service

Center publishes the Unified Agenda in April and October of each year. The RINs contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 650

Bridges, Grant programs-transportation, Highways and roads, Incorporation by reference, Reporting and recordkeeping requirements.

Stephanie Pollack,
Deputy Administrator,
Federal Highway Administration.

For the reasons stated in the preamble, 23 CFR part 650 is amended as set forth below.

PART 650—BRIDGES, STRUCTURES, AND HYDRAULICS

1. The authority citation for part 650 continues to read as follows:

Authority: 23 U.S.C. 119, 144, and 315.

2. Amend § 650.313 by revising paragraphs (h) and (k)(1) to read as follows:

§ 650.313 Inspection procedures.

* * * * *

(h) *Special inspection.* For special inspections used to monitor conditions as described in § 650.311(a)(1)(ii) and (b)(1)(ii), develop and document procedures in accordance with Section 4.2, AASHTO Manual (incorporated by reference, *see* § 650.317).

* * * * *

(k) ***

(1) Rate each bridge as to its safe load capacity in accordance with Sections 6 and 8, excluding the 3rd paragraph in Article 6B.7.1, AASHTO Manual (incorporated by reference, *see* § 650.317).

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